

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

INDECK KEYSTONE  
ENERGY, LLC, a Delaware limited liability  
company,

Plaintiff,

v.

VICTORY ENERGY  
OPERATIONS, LLC, a Delaware limited  
liability company,

Defendant.

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: CIVIL ACTION  
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: No. 04-CV-325 (ERIE)  
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: Judge Sean J. McLaughlin  
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**ORDER**

AND NOW, this \_\_\_\_\_ day of April, 2007, upon consideration of Defendant's Motion for Ruling that EPTI's Conduct in Performing the Contract Could Not Be Deemed a Waiver That Was Subject To Revocation, and the Response in Opposition thereto, it is hereby ORDERED, DECREED and ADJUDGED that Defendant's Motion is DENIED.

BY THE COURT:

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McLaughlin, J.